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13 Attorneys for Plaintiffs

14 SUSAN K. MYERS, MICHAEL F. MYERS

and KEITH J. GOTT

16 **UNITED STATES DISTRICT COURT**

17 **FOR THE DISTRICT OF NEVADA**

18 SUSAN K. MYERS, individually and as
trustee of the Susan K. Myers Living Trust
19 dated January 8, 2001, MICHAEL F.
MYERS, individually and as trustee of the
20 Susan Myers Massachusetts Trust, dated July
21 11, 2008, and KEITH J. GOTT, as trustee of
the Michael F. Myers Massachusetts Trust,
22 dated October 23, 2008, and the Michael F.
Myers Massachusetts Trust, dated December
23 3, 2008,

24 Plaintiffs,

25 v.

26 JAMES ARCHIBALD and PORT CAPITAL
MANAGEMENT LLC, a limited liability
company,

27 Defendants.

Case No: 3:10-cv-258-RCJ-RAM

**STIPULATION AND [PROPOSED] ORDER
RE AMENDMENT TO DISCOVERY PLAN**

1 WHEREAS, on February 22, 2011, the Court approved and entered the parties' stipulated
2 Proposed Discovery Plan (Dkt. No. 88), which, among other things, set various deadlines for
3 discovery events and certain filings in this action;

4 WHEREAS, since the entry of the Proposed Discovery Plan, the parties have proceeded
5 with discovery expeditiously, including propounding and exchanging written discovery requests,
6 producing several thousand pages of documents each, meeting and conferring about discovery
7 disputes both in writing and telephonically, and propounding discovery to third parties;

8 WHEREAS, the parties have engaged in good faith discussions about a potential resolution
9 of Plaintiffs' claims and have agreed to proceed with private mediation in an effort to resolve the
10 dispute;

11 WHEREAS, the parties have scheduled a mediation on September 13, 2011 in Chicago,
12 Illinois before the Honorable Richard E. Neville (Ret.) of JAMS, which also will be attended by at
13 least one other party associated with this dispute;

14 WHEREAS, the parties wish to avoid unnecessarily expending substantial additional sums
15 in pursuing discovery and expert work over the next several months while the parties await
16 commencement of mediation and a potential settlement through that process;

17 NOW, THEREFORE, it is hereby stipulated and agreed, by and between plaintiff Susan K.
18 Myers ("Susan") and plaintiff Michael F. Myers ("Michael") (together, the "Myerses") and
19 plaintiff Keith J. Gott (collectively, "Plaintiffs") and defendants James Archibald and Port Capital
20 Management LLC (together, "Defendants"), through undersigned counsel, that the Discovery Plan
21 entered on February 22, 2011, is amended as follows (the enumerated paragraphs below
22 correspond to the enumerated paragraphs in the Discovery Plan entered on February 22, 2011):

23 4. Discovery Cut-Off. All discovery shall be completed by **February 22, 2012.**

24 6. Expert Disclosures. Initial expert disclosures shall be made on or before
25 **December 23, 2011.** Rebuttal expert disclosures shall be made on or before **January 30, 2012.**

26 7. Dispositive Motions. Dispositive motions shall be filed on or before **March 19,**
27 **2012.**

1 8. Pretrial Order. The Pretrial Order shall be filed on or before **April 18, 2012**, which
2 is thirty (30) days after the deadline for filing dispositive motions, unless dispositive motions have
3 been filed, in which case the Pretrial Order will be due thirty (30) days after a decision or further
4 order of the Court.

5 DATED: July 20, 2011

KASOWITZ, BENSON, TORRES & FRIEDMAN LLP

7 By: /s/ Charles N. Freiberg
8 Charles N. Freiberg (Admitted *Pro Hac Vice*)
10 101 California Street, Suite 2300
11 San Francisco, CA 94111
12
13 Attorneys for Plaintiffs
14 Susan K. Myers, Michael F. Myers, and Keith J. Gott

11 DATED: July 20, 2011

BOWDITCH & DEWEY LLP

13 By: /s/ Louis M. Ciavarra
14 Louis M. Ciavarra (Admitted *Pro Hac Vice*)
15 311 Main Street
16 Worcester, MA 01608
17
18 Attorneys for Defendants
19 James Archibald and Port Capital Management LLC

19 Pursuant to the parties' stipulation, and good cause appearing,

20 **IT IS SO ORDERED.**

21 Dated: July ___, 2011

22 Honorable Robert A. McQuaid, Jr.
23 United States Magistrate Judge
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